

Revised for  
Second Reading  
March 7, 2006

ORDINANCE NO. 06-04

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA, AMENDING CHAPTER 70 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND VEHICLES" BY AMENDING SECTION 70-1 TO PROVIDE A DEFINITION OF STORAGE; BY AMENDING SECTION 70-116 TO EXPAND THE PERIOD OF TIME TO 72 HOURS FOR VEHICLE STORAGE ON A PUBLIC STREET; BY ADDING SECTION 70-128 TO ESTABLISH REGULATIONS FOR ABANDONED VEHICLES AND VESSELS ON THE PUBLIC RIGHT-OF-WAY, INCLUDING PENALTIES; BY ADDING SECTION 70-129 TO ESTABLISH A STORAGE FEE; BY AMENDING SECTION 70-649 TO REDUCE THE AMOUNT OF TIME A WRECKER SHALL HAVE TO REMOVE A VEHICLE; AMENDING SECTION 70-650 AND 70-656 TO PROVIDE ALTERNATE TOW COMPANY ELIGIBILITY REGULATIONS FOR COMPANIES THAT TOW ABANDONED VEHICLES; AMENDING SECTION 70-657 TO PROVIDE FOR THE CITY MANAGER'S DESIGNEE TO CONDUCT HEARINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Key West is experiencing the problem of an excessive number of vehicles abandoned on its streets combined with an insufficient capacity of the local tow companies to remove and store them; and

WHEREAS, the City Commission desires to establish specific regulations, including fines and other charges, for an owner who abandons a vehicle or a vessel on the right-of-way or in a public place; and

WHEREAS, the City Commission finds that abandoned vehicles and vessels on the right-of-way have a blighting effect on the city, become attractive nuisances to children, attract vermin, and are a detriment to neighborhood safety; and

WHEREAS, the abandoned vehicle law in section 705.103(4), Florida Statutes, provides for the City to recover its storage costs; and

WHEREAS, an increased flexibility by the City to address its abandoned and stored vehicles would serve to promote the health, safety and welfare of the citizens of Key West;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That section 70-1 of the Code of Ordinances is hereby amended as follows\*:

**Sec. 70-1. Definitions.**

\* \* \* \*

Storage (or stored) means the status of an operable vehicle or vessel (including a vessel on a trailer) on a street or

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\*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

other public place when its owner or user does not move it from a parking location within a prescribed time, and when its owner has no intent that it become abandoned property.

\* \* \* \*

Section 2: That section 70-116 of the Code of Ordinances is hereby amended as follows:

**Sec. 70-116. Prohibited parking.**

(a) No person shall park a vehicle upon any city street, ~~or~~ alley or other public place for the purpose of:

\* \* \* \*

(5) ~~Storage, or as junkage or dead storage,~~ on the public right-of-way or in a public place for more than ~~24~~ 72 hours. A stored vehicle shall not mean an abandoned vehicle or vessel, the latter of which may be removed according to law without regard to the length of time it abides on a street or alley. A vessel shall not be stored on the right of way or in a public place for any length of time, and its owner is subject immediately to the storage fee of section 70-129.

\* \* \* \*

Section 3: That section 70-128 is hereby added to the Code of Ordinances as follows:

**Sec. 70-128. Abandoned vehicles and vessels.**

(a) Definitions (supplemental to the definitions of section 70-1).

i. "Abandoned vehicle or vessel" shall mean any automobile, bus, truck, truck trailer, vessel trailer, moped, scooter, motorcycle, electric vehicle, golf cart, trailer, camper, recreational vehicle, motor home, travel trailer, or any type of watercraft, whether motorized or not and whether habitable or not, that has been determined to be abandoned property, as defined in section 705.101, Florida Statutes, pursuant to the procedures of chapter 705, Florida Statutes (or a successor statute).

ii. "Inoperable vehicle" shall mean a vehicle incapable of being immediately driven, including, but not limited to, a vehicle that either does not have an engine or does not have wheels or tires.

iii. "Junked vehicle or vessel" shall mean a vehicle or vessel that is substantially dismantled, including, but not limited to, a vehicle or vessel that has incurred substantial damage.

(b) No owner or other person shall leave an abandoned vehicle or vessel on a right-of-way or in a public place in Key West.

(c) The movement of an abandoned vehicle or vessel to another location within 100 feet shall not alter its status as abandoned.

(d) When an enforcement officer observes an abandoned vehicle or vessel on the public right-of-way or in a public place, he or she may cause its removal consistent with the provisions of Florida Statutes Chapter 705 (or a successor law). An inoperable or junked

vehicle or vessel, or a vehicle without a current license tag, constitutes prima facie evidence of abandonment.

(e) A violation of this section shall be punishable in accordance with section 1-15 of the Code of Ordinances. In addition or in the alternative thereto, the city may pursue all other lawful remedies and charges against the owner of an abandoned vehicle or vessel.

Section 4: That section 70-129 of the Code of Ordinances is hereby added to the Code of Ordinances as follows:

**Sec. 70-129. Storage fee.**

There is hereby established a storage fee of \$25.00 per day. It shall be imposed upon an owner of a vehicle or vessel stored on a city right-of-way, as described in section 70-116. The storage fee shall also be imposed upon an owner of an abandoned vehicle or vessel, as defined in section 70-128, in addition to any fine or penalty or any towing charge(s) imposed upon such owner.

Section 5: That section 70-649 of the Code of Ordinances is hereby amended as follows:

**Sec. 70-649. Rotating call list.**

\* \* \* \*

(b) A tow company on the rotating call list shall tow every vehicle or vessel on land as directed by the police

department. The tow shall occur ~~within 24 hours of the call,~~  
~~except that it shall occur~~ immediately when the police department  
indicates a safety hazard. The tow company neither shall  
undertake selective towing nor impose its own limits on the  
number of vehicles or vessels on land it will tow in a given time  
period. If a tow company determines not to tow a vehicle or  
vessel on land per the direction of the police department, the  
tow company must justify its determination to the satisfaction of  
the police chief or his designee, or otherwise be subject to  
removal from the rotating call list. If all members of the  
rotating call list are unable to respond to a call, the police  
department may call for a wrecker not on the rotating call list.

\* \* \* \*

(e) In the event that the rotating call list fails to  
assure an orderly removal of abandoned vehicles from the city's  
rights-of-way or public places, then the city may establish any  
lawful program or set of administrative rules necessary to ensure  
the removal of abandoned vehicles. ~~The city may establish an~~  
~~alternate rotating call list for abandoned vehicles. This~~  
~~rotation shall operate independently of the rotating call list~~  
~~established in subsection (a) above. All tow services on the~~  
~~rotating call list of subsection (a) must also participate on the~~  
~~abandoned vehicle rotating call list. The police department shall~~

~~issue administrative rules to ensure the fair operation of the two rotation lists.~~

Section 6: That section 70-650 of the Code of Ordinances is hereby amended as follows:

**Sec. 70-650. Application for placement.**

Any person desiring to be placed on a call list for the purpose of offering towing service with the police department for the handling, removing and caring for lost, stolen, abandoned, and damaged vehicles impeding the free flow of traffic shall make application for an approval with the police department, and such application shall state the following:

(1) The name, home address and proposed business address of the applicant.

(2) The location, description and number of the tow trucks and towing services owned and operated by the applicant.

(3) The applicant has available space for properly accommodating and protecting all motor vehicles entrusted to the applicant's care; provided, however, that the requirement of this subsection may be adjusted, at the discretion of the chief of police, for an applicant who would propose to remove abandoned vehicles from the rights-of-way or public places of the city.

(4) The applicant shall present proof of possession of a valid state commercial tow truck operator's license for all employees providing services pursuant to this division.

(5) The applicant shall submit proof of a valid city occupational license.

Section 7: That section 70-656 of the Code of Ordinances is hereby amended as follows:

**Sec. 70-656. Insurance required.**

Each holder of a rotating call list permit shall maintain in effect an insurance policy which shall insure it for its liability at a minimum, as follows:

(1) For each tow truck, combined single limit of \$500,000.00; and

(2) For garagekeeper's liability, not less than \$50,000.00 for each loss covering perils of fire and explosion, theft of a motor vehicle and parts or contents, riot and civil commotion, vandalism, malicious mischief, and for on-hook protection; provided, however, that the requirement of this subsection may be adjusted, at the discretion of the chief of police, for an applicant who would propose to remove abandoned vehicles from the rights-of-way or public places of the city.



Section 8: That section 70-657 of the Code of Ordinances is hereby amended as follows:

**Sec. 70-657. Removal from rotating call list.**

Any violation of this division may subject a tow company on the rotating call list to suspension or revocation. The city manager or his designee shall conduct a hearing and provide notice and an opportunity to be heard to the subject tow company. The city manager or his designee shall take into consideration: (i) the nature of the violation or alleged violation; (ii) the towing company's record of violations and complaints against it; and (iii) the history of recurrence of violations by the tow company. Only when there is a history of recurrence of the violation or an instance of consumer fraud or an earlier suspension under this division may the city manager or his designee revoke the rotating call list permit and remove the tow company from the list. In all other instances, the city manager or his designee, upon his judgment, may issue a suspension order. A suspension shall not exceed 90 days. The decision of the city manager or his designee may be appealed to the city commission by the filing of an appeal in writing to the city clerk within ten days of the receipt of the decision. An appeal stays execution of the order.

Section 9: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 10: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 11: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 22nd day of February, 2006.

Read and passed on final reading at a regular meeting held this 7th day of March, 2006.

Authenticated by the presiding officer and Clerk of the Commission on 8th day of March, 2006.

Filed with the Clerk March 8, 2006.

  
MORGAN MOPHERSON, MAYOR

ATTEST:  
  
CHERYL SMITH, CITY CLERK